IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 26993 of 2007(L)

PETITIONER:

GOLDEN VIRGIN COCONUT OIL PVT.LTD.,
KAYARADY P.O., NEMMARA REPRESENTED BY ITS
MANAGING DIRECTOR, VINCENT MANI, S/O.MANI K.M.

BY ADV. SRI.JOHN JOSEPH(ROY)
SRI.TITUS JOSEPH

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE, NEMMARA
POLICE STATION, NEMMARA P.O., PALAKKAD.

2. CIRCLE INSPECTOR OF POLICE,
OFFICE OF THE C.I. OF POLICE,
NEMMARA.

3. PALAKKADU DIRECTOR GENERAL HEADLOAD
AND GENERAL WORKERS CONGRESS (INTUC), AYILOOR
DIVISION COMMITTEE, INTUC OFFICE ADIPARAMBA,
KAIRADY P.O., REPRESENTED BY ITS SECRETARY
C.SHAHUL HAMMEED, S/O.CHELLAN RAUTHER.

4. THE ASSISTANT LABOUR OFFICER,
OFFICE OF ALO, NEMMARA P.O.,
PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.P.S.APPU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS :

EXT.P1 TRUE COPY OF THE PROVISIONAL SSI REGN CERTIFICATE DT.8.9.2005 OF THE PETITIONER COMPANY

EXT.P2 TRUE COPY OF THE POSSESSION CERTIFICATE F THE PROPERTY OF THE PETITIONER COMPANY FROM VILLAGE OFFICE

EXT.P3 TRUE COPY OF THE PANCHAYAT LICENCE ISSUED TO THE PETITIONER COMPANY

EXT.P4 TRUE COPY OF THE LETTER DT.3.7.2007 ISSUED BY R3

EXT.P5 TRUE COPY OF THE COMPLAINT DT.17.7.2007 FILED BEFORE R1

EXT.P6 TRUE COPY OF THE RECEIPT ISSUED BY THE R1 DT.17.7.2007 & THE CI

EXT.P7 TRUE COPY OF THE RECEIPT ISSUED FROM THE SP OFFICE PALAKKAD REG. RECEIPT OF COMPLAINT FROM THE PETITIONER

EXT.P8 TRUE COPY OF THE NOTICE ISSUED FROM THE 4TH RESPONDENT FOR THE SETTLEMENT OF DISPUTE ISSUED TO THE PETITIONER

TRUE COPY

PA TO JUDGE

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.26993 of 2007-L

Judgment

Balakrishnan Nair, J.

The petitioner is a Private Limited Company. Through its Managing Director, this Writ Petition is filed, seeking police protection to do the loading and unloading work inside its factory premises. The Company is running an industrial unit, extracting coconut oil from raw coconuts. It submits, 32 unemployed persons are the promoters of the unit and they are doing all the works in connection with the running of the factory. When the unit started trial run, the third respondent union issued Ext.P4 letter, claiming that their members alone are entitled to do the loading and unloading work. Thereupon the petitioner filed Ext.P5 petition before the Police, claiming police protection to enable the promoters of the Company to do the work. Thereafter, this Writ Petition is filed, seeking the following reliefs :

> *"(i) Issue a writ of mandamus or any other appropriate writ, order or direction, directing respondents 1 and 2 to provide effective and adequate police protection to the factory and its workers/employees of the petitioner from the 3rd respondent union*

and its members or anybody claiming under them from causing any obstruction in the factory premises including the work of loading and unloading.

(ii) Issue a writ of mandamus directing respondents 1 and 2 to prohibit all types of obstruction from the 3rd respondent and its members within the factory premises of the petitioner."

2. The 3rd respondent has filed a counter affidavit, stating that hitherto, all the loading and unloading work in the factory of the petitioner was being done by its members. Now, those workmen are denied work and therefore, it has moved the District Labour Officer by filing Ext.R3(c) petition, seeking appropriate reliefs. The Union submits, it is pursuing the said claim. The learned Government Pleader upon instruction submitted that there is no law and order problem in the area and that all the reliefs sought in the Writ Petition are anticipatory in nature. The petitioner has filed a reply affidavit to the counter affidavit filed by the third respondent, reiterating its right to engage its members to do the loading and unloading work.

3. This being not a scheme covered area, normally, the regular Workmen of the factory should be permitted to do the work. If the third respondent has got a claim that its members have a right to do the work, they may establish the said right before the appropriate forum under the provisions of the Headload Workers Act. In that event, the petitioner will be bound to respect the same. If the members of the 3rd respondent are causing any obstruction to the functioning of the unit, including the loading and unloading work, the petitioner may inform the 1st respondent. In that event, the 1st respondent shall look into the matter and take appropriate action in accordance with law to remove the obstruction. But, this direction will be subject to the orders of the statutory authorities , if any, that may be passed in favour of the third respondent.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,JUDGE

18.09.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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